



LOCAL ENFORCEMENT ACCOMPLISHMENTS FY 2006

**MARYLAND CIGARETTE RESTITUTION FUND
TOBACCO USE PREVENTION AND CESSATION PROGRAM
LOCAL PUBLIC HEALTH COMPONENT
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INTRODUCTION

With the passage of SB896/HB1425, the Maryland General Assembly established The Comprehensive Tobacco Use Prevention and Cessation Initiative under the Cigarette Restitution Fund Program (CRFP). The local public health component of the CRFP program provides grants to local health departments for tobacco use prevention and cessation initiatives including programs to enforce existing tobacco control laws and promote clean indoor air policies.

Enforcement is an important component of a strong comprehensive tobacco control program. The two primary areas of enforcement are restricting minors' access to tobacco products and restricting smoking in public places.

In order to reduce illegal sales of tobacco products to underage youth, local health departments:

- Educate tobacco vendors about Maryland's tobacco laws.
- Partner with local law enforcement agencies to conduct compliance checks for underage sales.
- Partner with local law enforcement to issue citations to youth for illegal possession of tobacco products.
- Conduct tobacco education and cessation programs for youth.

Some local jurisdictions also have product placement ordinances that are enforceable. In these cases, local health departments fund the education and compliance activities associated with the ordinance.

Some local jurisdictions have passed ordinances and restrictions that have a broader scope than the state's workplace regulation. Some jurisdictions have smoke free restaurants and others have expanded the workplace regulations to include smoke free grounds around government buildings. These initiatives have rallied the community to push tobacco use prevention and enforcement initiatives to the forefront of the local agenda.

The result of enforcing tobacco laws is twofold. First, violators are deterred and second, a public statement is made that community leaders support tobacco control. In a comprehensive tobacco control program, enforcement supports the other components by creating an environment where tobacco use is not the norm.

Each jurisdiction in Maryland allocates 6-16% of their total local public health tobacco funding to enforcement activities.

Table 1. FY06 Local Health Department Enforcement Allocations

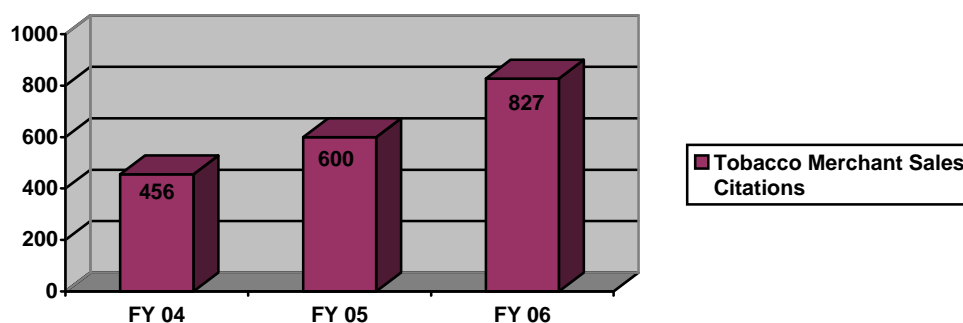
Jurisdiction	Allocation	Jurisdiction	Allocation
Allegany	\$12,787	Harford	\$46,037
Anne Arundel	\$38,276	Howard	\$32,651
Baltimore City	\$114,898	Kent	\$10,192
Baltimore County	\$69,024	Montgomery	\$71,775
Calvert	\$10,708	Prince George's	\$81,347
Caroline	\$17,400	Queen Anne's	\$16,183
Carroll	\$29,600	St. Mary's	\$19,939
Cecil	\$19,976	Somerset	\$12,380
Charles	\$23,318	Talbot	\$11,431
Dorchester	\$8,319	Washington	\$17,410
Frederick	\$36,543	Wicomico	\$15,823
Garrett	\$7,798	Worcester	\$9,374

Enforcement remains a solid element of the Local Public Health Component of CRFP. Many of the local health departments (LHDs) maintain strong partnerships with local law enforcement agencies to oversee compliance checks and provide education and training to area merchants. These partnerships are vital to reduce the number of underage youth that have illegal access to tobacco products.

FY06 LOCAL PUBLIC HEALTH ENFORCEMENT ACCOMPLISHMENTS

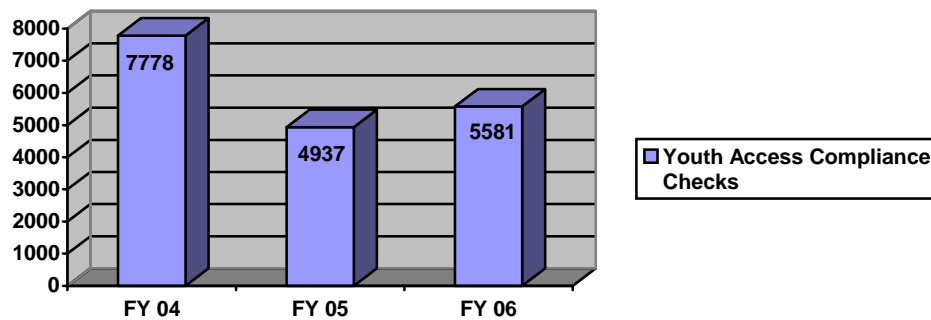
- **1** Clean indoor air citation was issued
- **1,1307** Merchants were educated on youth access laws
- **10,615** Merchants were educated on product placement
- **37** Product placement citations issued
- **4,747** Product placement compliance checks completed
- **827** Tobacco sales merchants citations issued
- **5,581** Youth access compliance checks
- **602** Youth tobacco possession citations issued

ENFORCEMENT FY 2004-2006 COMPARISONS

Figure 1. Tobacco Merchant Sales Citations

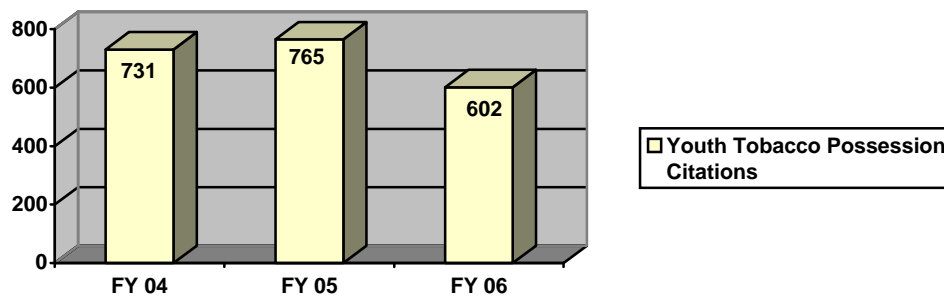
1,883 tobacco sales citations were issued to merchants between FY04 – FY06.

Figure 2. Youth Access Compliance Checks



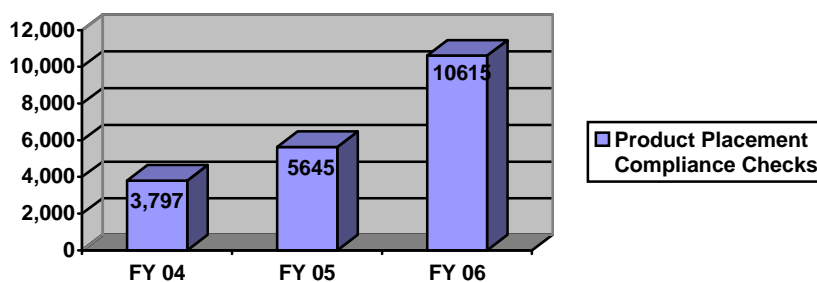
18,296 youth access compliance checks were conducted between FY04 – FY06.

Figure 3. Youth Tobacco Possession Citations



2,098 youth tobacco possession citations were issued between FY04 – FY06.

Figure 4. Product Placement Compliance Checks



20,057 product placement compliance checks were conducted between FY04 - FY06.

The Legal Resource Center

The University of Maryland School of Law established the Legal Resource Center for Tobacco Regulation, Litigation and Advocacy and receives funding from the Department of Health and Mental Hygiene. The Center provides legal expertise and resources to state agencies, local government health departments and community groups working on policy solutions to reduce tobacco use. The Center also plays a pivotal role in national tobacco control policy in providing technical assistance on matters that may have an impact on Maryland.

Since its establishment on August 1, 2001, the Center staff has provided technical assistance in some form to each of the twenty-four county health departments, numerous community coalitions, state and local legislators and a number of individuals. Some of their activities include:

- ❖ Assisting local health departments in drafting, implementing and enforcing laws designed to reduce youth access to tobacco.
- ❖ Educating retailers about laws prohibiting tobacco sales to minors.
- ❖ Drafting clean indoor air legislation and supportive policy memoranda.
- ❖ Providing technical legal assistance to state legislators sponsoring tobacco control legislation.
- ❖ Sponsoring a conference for local health departments on youth access enforcement.

FY06 POLICY INITIATIVES

Howard County

Bill 38-2006 was passed on August 8, 2006, prohibiting smoking in workplaces and public places in Howard County. The law requires the establishment of a 15-foot smoke-free buffer zone around entrances and exits and all new bars and restaurants must be smoke-free effective June 2007. Individuals who violate the law are subject to a Class B civil citation with a fine of \$100 for each infraction. Owners and managers of establishments that allow smoking are subject to a Class C civil citation with a fine of \$250.

Prince George's County

Council Bill 68-2005 took effect December 30, 2006, prohibiting smoking in eating and drinking establishments open to the public, with the exception of certain clubs and licensees as stated in the State alcoholic beverages law. Restaurant owners are required to display signs informing patrons of the ban for which violators may be fined \$200. Owners and managers of establishments who allow smoking may be fined up to \$1,000.

Charles County

On May 1, 2006, Charles County passed an ordinance/law prohibiting smoking in restaurants and outdoor facilities that are operated by the county, such as parks. However, bars were exempted from the ban. The ban became effective June 15, 2006.

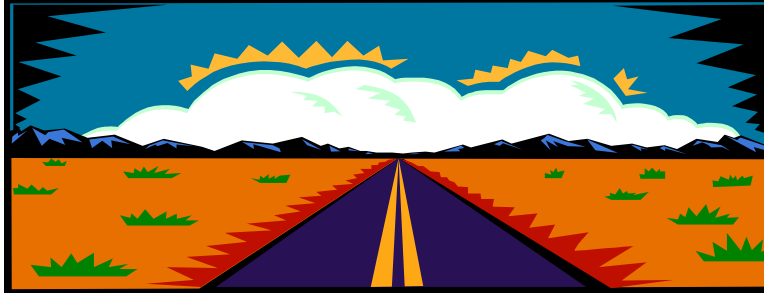
The La Plata five-member Town Council passed an ordinance on July 18, 2006 that bans smoking in and around restaurants and bars. This ordinance is more stringent than the smoking ban that went into effect for all of Charles County in May. Effective October 15, 2006, smoking is banned in bars, restaurants, and public places as well as within 20 feet of public entrances to commercial establishments.

CENTER FOR HEALTH PROMOTION, EDUCATION, AND TOBACCO USE
PREVENTION

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The Rules of the Road

Selling Tobacco in Maryland

SELLING CLOVE CIGARETTES IS ILLEGAL

It is illegal to sell, give, or otherwise distribute clove cigarettes to ANY person, even if eighteen years old or older [Maryland Code, Criminal Law, §10-106].

TOBACCO PRODUCTS DEFINED

A “tobacco product” is ANY product that has tobacco as an ingredient. Tobacco products include, but are not limited to: cigarettes, cigars, smokeless tobacco, snuff, bidis, kreteks, etc. [See Maryland Code, Criminal Law, §10-101].

SELLING TOBACCO PRODUCTS FROM VENDING MACHINES IS ILLEGAL

It is illegal to sell or dispense tobacco products from a vending machine to ANY person unless the machine is located in an establishment from which persons under the age of eighteen years old are prohibited from entering under Maryland law, or can only be operated with a token, card, or similar device that a person can only obtain or purchase from the owner, agent, or employee of the owner [Maryland Code, Business Regulation Article, §16-3A-02].

SELLING TOBACCO PRODUCTS TO MINORS IS ILLEGAL

It is illegal to sell, give, or otherwise distribute a tobacco product to a person who is less than eighteen years old. A tobacco product is any product that contains tobacco in any form [Maryland Code, Criminal Law, §10-107].

SELLING CIGARETTE-ROLLING PAPERS TO MINORS IS ILLEGAL

It is illegal to sell, give, or otherwise distribute cigarette-rolling papers to a person who is less than eighteen years old [Maryland Code, Criminal Law, §10-107].

DISTRIBUTING COUPONS FOR TOBACCO TO MINORS IS ILLEGAL

It is illegal to give or otherwise distribute coupons redeemable for tobacco products to a person who is less than eighteen years old [Maryland Code, Criminal Law, §10-107].

Under-Age Use of Tobacco in Maryland

POSSESSION OF TOBACCO BY A MINOR IS ILLEGAL

It is illegal for a person who is less than eighteen years old to possess, or attempt to possess, any tobacco product. Minor's whose employment involves the handling of tobacco products are exempted for possession that occurs in the course of their regular [Maryland Code, Criminal Law, §10-108].

POSSESION OF CIGARETTE-ROLLING PAPERS BY A MINOR IS ILLEGAL

It is illegal for a person who is less than eighteen years old to possess, or attempt to possess, cigarette-rolling papers [Maryland Code, Criminal Law, §10-108].

USING FALSE ID TO TRY AND BUY TOBACCO IS ILLEGAL

It is illegal for any person to use or attempt to use false or fake identification, including using someone else's identification, when purchasing or attempting to purchase tobacco products [Maryland Code, Criminal Law, §10-108].

Restrictions on Smoking Indoors

GENERAL RULE - SMOKING IN THE WORKPLACE IS PROHIBITED

Except as otherwise provided, smoking in an indoor enclosed workplace is prohibited and a sign stating such must be posted at the entrance to the building [COMAR 09.12.23.03].

ENCLOSED WORKPLACE DEFINED

An enclosed workplace is defined as an indoor place of employment. It includes, but is not limited to: [COMAR 09.12.23.01]

1. Vehicles when used in the course of employment and occupied by more than one employee;
2. Employee lounges or restrooms;
3. Conference and meeting rooms;
4. Classrooms;
5. Cafeterias operated by employers for use by employees;
6. Hallways;
7. Restaurants;
8. Bars and Taverns;
9. Sleeping rooms in hotels and motels
10. Assembly, conference, convention, or meeting establishment or enclosed portion of the establishment.

DESIGNATED SMOKING AREA ALLOWED ONLY IF....

An employer may allow smoking in a designated area if that area meets ALL of the following requirements: [COMAR 09.12.23.01].

- (1) Area is totally enclosed with solid walls, ceiling, and closeable door;
- (2) Walls tightly join floor and ceiling;
- (3) Openings to any adjacent workplaces limited to make-up air inlets;
- (4) Ventilation system exhausts directly to the outdoors without any recirculation of the air to nonsmoking areas;
- (5) Not a location or workspace where an employee, other than a custodial or maintenance employee is required to work;
- (6) Under sufficient negative pressure at all times to ensure that no smoke migrates to other workspaces;
- (7) Cleaning and maintenance work in the area is conducted while no one is smoking in the area; and
- (8) Employer conducts at least quarterly inspections of the ventilation to ensure that adequate negative pressure is being maintained.

EMPLOYERS MAY ADOPT TOUGHER STANDARDS

No limitation or exclusion from Maryland's restrictions on indoor smoking are to be construed as preventing an employer or proprietor from adopting tougher restrictions or from banning smoking altogether. No right to smoke is conferred [Maryland Code, Labor and Employment Article, §2-106(c)].

EXCLUSION FROM ANY RESTRICTIONS

Excluded from any of Maryland's restrictions on smoking in the workplace are: (1) tobacconist establishments that engage primarily in the sale of tobacco and tobacco-related accessories; (2) vehicles used in the course of employment and occupied by only one individual; and (3) smoking in a analytical or educational laboratory and necessary to the conduct of scientific research into the health effects of tobacco smoke [COMAR 09.12.23.01].

SPECIAL RULE: RESTAURANTS WITHOUT A LIQUOR LICENSE

Smoking is permitted in a separate enclosed room so long as that room does not exceed 40% of the total area of the restaurant. The smoking area need NOT be separately ventilated [Maryland Code, Labor and Employment Article, §2-106(c)].

SPECIAL RULE: RESTAURANTS WITH A LIQUOR LICENSE

Smoking is permitted at the bar and in the bar area, a separate enclosed room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate enclosed room not exceeding 40% of the total area of the restaurant (including the bar or bar areas). The "bar area" is considered to be the bar and the first row of immediately adjacent tables or booths (see statute for further definition). The separate enclosed room need not be separately ventilated [Maryland Code, Labor and Employment Article, §2-106(c)].

SPECIAL RULE: HOTELS AND MOTELS

Smoking is permitted in up to 40% of the sleeping rooms in a hotel or motel [Maryland Code, Labor and Employment Article, §2-106(c)].

SPECIAL RULE: ESTABLISHMENTS LICENSED FOR ON-SITE LIQUOR CONSUMPTION

Smoking is permitted in a separate enclosed room of establishments that have a liquor license that allows the on-site consumption of alcoholic beverages (i.e., pool rooms, bowling alleys, etc.). The enclosed room need not be separated ventilated [Maryland Code, Labor and Employment Article, §2-106(c)].

SPECIAL RULE: CERTAIN TYPES OF ORGANIZATIONS

Smoking is permitted in up to 40% of the premises of a fraternal, religious, or charitable organization or corporation, or fire company or rescue squad during an event that is open to the public and held on its own property [Maryland Code, Labor and Employment Article, §2-106(c)].

Other State Smoking Restrictions

SMOKING BANNED ON PUBLIC TRANSPORTATION

Smoking is banned on intrastate bus carriers while in public service [Maryland Code, Article 78, §35A], and smoking or carrying lighted tobacco products is illegal on any public transportation or in any public transportation facility [Maryland Code, Transportation Article, §7-705].

SMOKING BANNED IN SCHOOLS AND ON SCHOOL GROUNDS

Smoking is banned in schools and on school grounds. This prohibition applies to adults as well as youth [State Board of Education, Title 13A, Subtitle 02, c. 04].

SMOKING BANNED IN PUBLIC ELEVATORS

Smoking is banned in all public elevators [Maryland Code, Article 89, §64].